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**The Senate of  
The State of Texas**

COMMITTEES:  
JURISPRUDENCE  
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INTERGOVERNMENTAL RELATIONS  
STATE AFFAIRS

June 3, 1994

STS  
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Attorney General Office  
Opinion Committee  
300 West 15th Street, 12th Floor  
William A. Clements Building  
Austin, Texas 78701

**RQ-709**

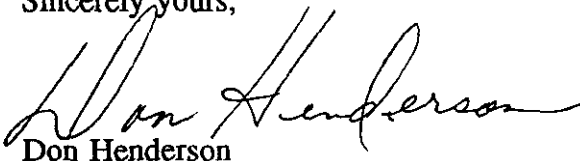
To Whom It May Concern:

I received a letter from a constituent requesting an opinion on Rules 406.016 and 202 and the Attorney General's opinion on whether or not a videographer, that has become a notary public, can conduct oral deposition without a court reporter present and have everything be "official and admissible"?

I would appreciate an opinion on this question that Mr. R. Eric Hirtriter has posed.

Thank you for your assistance on this matter.

Sincerely yours,

  
Don Henderson

DH/zh

enclosure

MAY 23 1994

May 15, 1994

Mr. Don Henderson  
District 7, Texas Senator  
7915 Fm 1960 West  
Houston, Texas 77070  
(713) 469-1977

Dear Mr. Henderson,

I am a videographer. I videotape the oral testimony in depositions. I have done some research in order to find out how I can replace the Certified Court Reporter in the depositions. I would need to be able to 1) swear in the witness at a deposition, 2) notarize/certify what was said is what was videotaped, and 3) notarize/certify the copies of documents/exhibits that are presented during the deposition. I firmly believe that this would reduce the cost of insurance to the consumer by reducing the price that attorneys would have to pay for a video and a certified court reporter to be present at every deposition. The certified court reporter charges are approximately double that of the videographers. I believe that most cases are settled before going to trial, therefore there would only be a need to make a transcript from the video if the case went to trial. It is my understanding that according to the following statutes and opinion, that if I become a Notary Public, I can do so. Is my understanding correct? I have cited portions of rules below and have enclosed them to facilitate your review.

According to Texas Government Rule #406.016, Notary Public: Notaries have the same authority as a county clerk to administer oaths, take depositions, certify copies of documents, .... [See attached]

According to Texas Rules of Civil Procedure, Rule 202, Non-stenographic recordings: lawyers may use videotape depositions, without leave of the court and may be presented at trial in lieu of a stenographic transcript, subject to certain rules, one of which states: non-stenographic recording shall not dispense with the requirements of a stenographic transcript of the deposition unless the court shall so order on motion and notice before the deposition is taken ...(1)(e). [See attached]

According to the Attorney General opinion No. JM-110 (1984) notaries public are authorized to take written depositions in non-stenographic form. [See attached]

Therefore, are rules 406.016 and 202 and the AG's opinion sufficient to enable a videographer, that has become a Notary Public, to conduct oral depositions without a court reporter present and have everything conducted there be "official" and admissible?

If not, please inform me of additional steps to take, or what the state of the law needs to be for a videographer to legally take depositions without a Certified Court Reporter being present and certify the evidence given in the deposition?

Your assistance is greatly appreciated.

Sincerely,

A handwritten signature in cursive script, reading "R. Eric Hirtriter". The signature is fluid and stylized, with the first name "R. Eric" and last name "Hirtriter" clearly legible.

R. Eric Hirtriter  
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